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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
JACOBS, LASHONDA T

ART UNIT	PAPER NUMBER
2157	

DATE MAILED: 09/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

Application No.	Applicant(s)
09/417,739	BOSS ET AL.
Examiner	Art Unit
LaShonda T. Jacobs	2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _06 August 2003_ .

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under _Ex parte Quayle_, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _4,7-9,15,16 and 37-43_ is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _4,7-9,15,16 and 37-43_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

This Office Action is in response to Applicant's request for reconsideration on August 6, 2003.

Claims 4, 7-9, 15-16, and 37-43 are presented for further examination

Claim Rejections - 35 USC § 112

1.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2.   Claims **4, 7, 9, 16, 37, 39, 42**, and **43** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3.   Claim 4, recites the limitation "selected information" in line 4. There is insufficient antecedent basis for this limitation in the claim.

4.   Claim 7,recites the limitation "selected information" in line 4 and 10. There is insufficient antecedent basis for this limitation in the claim.

5.   Claim 7, recites the limitation, "recorded information" in line 11. There is insufficient antecedent basis for this limitation in the claim.

6.   Claim 7, recites the limitation, "said response" in lines 11. There is insufficient antecedent basis for this limitation in the claim. It is unclear as to which response the client request is a function of.

7.   Claim 9, recites the limitation "selected information" in line 4. There is insufficient

antecedent basis for this limitation in the claim.

8.   Claim 9, recites the limitation "the time" in line 8. There is insufficient antecedent basis

for this limitation in the claim.

9.   Claim 16, recites the limitation "the representation" in line 8. There is insufficient

antecedent basis for this limitation in the claim.

10.   Claim 37, recites the limitation "the relative location" in line 3. There is insufficient

antecedent basis for this limitation in the claim.

11.   Claim 39, recites the limitation "the representation" in line 8. There is insufficient

antecedent basis for this limitation in the claim.

12.   Claim 42, recites the limitation "the representation" in line 1. There is insufficient

antecedent basis for this limitation in the claim.

13.   Claim 43, recites the limitation "the representation" in line 1. There is insufficient

antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

14.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

15.   Claims 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Bryant.

As per claim **4**, Bryant discloses a method and system for recording network transactions, comprising the acts of:

- coupling to a client object by the way of a proxy server (monitor) interface of said client object (see abstract, col. 3, lines 59-61 and col. 10, lines 15-16);

- receiving from said client object, a client request destined for said network (col. 3, lines 34-36);

- recording selected information indicative of said client request (col. 2, lines 8-12, and col. 3, lines 62-66);

- transmitting said client request onto said network (col. 3, lines 34-36, and col. 4, lines 49-56); and

- simulating a user interaction by retransmitting said client request (see abstract, col. 1, lines 48-55, lines 66-67, col. 2, lines 1-19, col. 4, lines 13-24, and col. 5, lines 15-26).

Claim Rejections - 35 USC § 103

16.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

17.   Claims **7-9**, **15-16**, and **37-41** are rejected under 35 U.S.C. 103(a) as being unpatentable over Bryant in view of Chen et al (hereinafter, "Chen", 6,175,862).

As per claim **7**, Bryant discloses:

- coupling to a client object by the way of a proxy server (monitor) interface of said client object (see abstract, col. 3, lines 59-61 and col. 10, lines 15-16);

- receiving a first client request destined for said network (col. 3, lines 34-36, and col. 4, lines 49-56);

- recording selected information indicative of said first client request (see Fig. 2, col. 2, lines 8-12, and col. 3, lines 62-66);

- transmitting said first client request onto said network (col. 3, lines 34-36, and col. 4, lines 49-56);

- receiving a response to said first client request from said network (col. 3, lines 34-36, and col. 4, lines 49-56);

- transmitting said response to said client object (col. 3, lines 34-36, and col. 4, lines 49-56);

- receiving a second client request destined for said network (see Fig. 2, col. 3, lines 34-36, lines 62-67, and col. 4, lines 1-3); and

- transmitting said second client request onto said network (col. 3, lines 34-36, and col. 4, lines 49-56);

However, Bryant does not disclose:

- recording selected information indicative of said second client request, wherein the recorded information indicative of said second client request is a function of said response.

Chen a method that extends a standard HTML browser to support a new data type, the Uniform Locator Sequence (URLS) comprising:

- recording selected information indicative of said second client request, wherein the recorded information indicative of said second client request is a function of said response (col. 4, lines 21-48)

Therefore, one of ordinary skill in the art would have found it obvious to combine the teachings of Bryant and Chen to include the recorded information indicative of said client request is a function of said response allowing the user to playback any recorded URLS.

As per claim **8**, Bryant discloses the invention substantially as claimed.

However, Bryant does not explicitly disclose:

- wherein at least one of said responses is a web page including a plurality of hyperlinks, and wherein said function takes into account the relative location of one said hyperlinks on said web page.

Chen a method that extends a standard HTML browser to support a new data type, the Uniform Locator Sequence (URLS) comprising:

- wherein at least one of said responses is a web page including a plurality of hyperlinks, and wherein said function takes into account the relative location of one said hyperlinks on said web page (col. 4, lines 21-26).

Therefore, one of ordinary skill in the art would have found it obvious to combine the teachings of Bryant and Chen to include a web page as a response with a plurality of hyperlinks and the function takes into account the relative location of the hyperlinks on web page allowing the user to playback any recorded URLS.

As per claim **9**, Bryant discloses:

- coupling to a client object by the way of a proxy server (monitor) interface of said client object (see abstract, col. 3, lines 59-61 and col. 10, lines 15-16);

- receiving a first client request destined for said network (col. 3, lines 34-36, and col. 4, lines 49-56);

- transmitting said first client request onto said network (col. 3, lines 34-36, and col. 4, lines 49-56);

- receiving a second client request destined for said network (see Fig. 2, col. 3, lines 34-36, lines 62-67, and col. 4, lines 1-3); and

- transmitting said second client request onto said network (col. 3, lines 34-36, and col. 4, lines 49-56);

However, Bryant does not explicitly disclose:

- recording the time between the first and second client requests.

Chen a method that extends a standard HTML browser to support a new data type, the Uniform Locator Sequence (URLS) comprising:

- recording the time between the first and second client requests (col. 4, lines 49-58).

Therefore, one of ordinary skill in the art would have found it obvious to combine the teachings of Bryant and Chen by recording the time between two requests in order to calculate a time delay allowing the user to view a current web page without being interrupted.

As per claims **15, 40,** and **41** Bryant discloses:

- a computer-readable medium containing computer-executable instructions (col. 10, lines 64-67, and col. 11, lines 1-6).

As per claim **16**, Bryant discloses:

- a first interface connectible to a client object, whereby said interface receives requests destined for said network originating from said client object (at least implicitly) (col. 3, lines 5-8 and lines 49-61);

- a recorder object in communication with said first object for receiving said requests by way of said first interface (col. 4, lines 66-67 and col. 5, lines 1-6), and said recorder object creating a record comprising a representation of said requests (see Fig. 2, col. 3, lines 62-67, col. 4, lines 1-3, and col. 5, lines 3-6); and

- a second interface connectible to said network (at least implicitly) (col. 2, lines 66-67, col. 3, lines 1-5, lines 14-26), said second interface being in communication with said recorder object wherein said recorder object transmits said request to said network by way of said second interface (col. 4, lines 49-56); and

- wherein said second interface receives responses destined for said client object originating from said network, wherein said recorder object is in communication with said second interface for receiving said responses by the way said second interface, wherein said first interface is in communication with said recorder object whereby said recorder object transmits said responses to said client object by the way of said first interface, (see Fig. 2, col. 3, lines 5-8, lines 14-26, lines 49-67, col. 4, lines 1-3, col. 5, lines 3-6, and col. 7, lines 31-52).

However, Bryant does not explicitly disclose:

- wherein at some of the representation of said requests is a function of said responses.

Chen a method that extends a standard HTML browser to support a new data type, the Uniform Locator Sequence (URLS) comprising:

- wherein at some of the representation of said requests is a function of said responses

  (col. 4, lines 21-48)

Therefore, one of ordinary skill in the art would have found it obvious to combine the

teachings of Bryant and Chen to include the recorded information indicative of said client

request is a function of said response allowing the user to playback any recorded URLS.

As per claim **37**, Bryant discloses the invention substantially as claimed.

However, Bryant does not disclose:

- wherein at least one of said responses is a web page including a plurality of hyperlinks,

  and wherein said function takes into account the relative location of one said hyperlinks

  on said web page.

Chen a method that extends a standard HTML browser to support a new data type, the

Uniform Locator Sequence (URLS) comprising:

- wherein at least one of said responses is a web page including a plurality of hyperlinks,

  and wherein said function takes into account the relative location of one said hyperlinks

  on said web page (col. 4, lines 21-26).

Therefore, one of ordinary skill in the art would have found it obvious to combine the

teachings of Bryant and Chen to include a web page as a response with a plurality of hyperlinks

and the function takes into account the relative location of the hyperlinks on web page allowing

the user to playback any recorded URLS.

As per claim **38**, Bryant discloses:

- a first interface connectible to a client object, whereby said interface receives requests

  destined for said network originating from said client object (at least implicitly) (col. 3,

  lines 5-8 and lines 49-61);

- a recorder object in communication with said first object for receiving said requests by

  way of said first interface (col. 4, lines 66-67 and col. 5, lines 1-6), and said recorder

  object creating a record comprising a representation of said requests (see Fig. 2, col. 3,

  lines 62-67, col. 4, lines 1-3, and col. 5, lines 3-6);

- a second interface connectible to said network (at least implicitly) (col. 2, lines 66-67,

  col. 3, lines 1-5, lines 14-26), said second interface being in communication with said

  recorder object wherein said recorder object transmits said request to said network by

  way of said second interface (col. 4, lines 50-56); and

- said recorder object (col. 5, lines 52-67, and col. 6, lines 1-8).

However, Bryant does not explicitly disclose:

- calculates the time between a first of said requests and a second of said requests, and

  includes in said record a representation of the calculated time.

Chen a method that extends a standard HTML browser to support a new data type, the

Uniform Locator Sequence (URLS) comprising:

- calculates the time between a first of said requests and a second of said requests, and

  includes in said record a representation of the calculated time (col. 4, lines 49-58).

Therefore, one of ordinary skill in the art would have found it obvious to combine the

teachings of Bryant and Chen by recording the time between two requests in order to calculate a

time delay allowing the user to view a current web page without being interrupted.

As per claim **39**, Bryant discloses:

- a replayer object which simulates a user network transaction by sending over said

  network the requests represented in said record including said first request and said

  second request (see abstract, col. 1, lines 48-55, lines 66-67, col. 2, lines 1-19, col. 4,

  lines 13-24, col. 5, lines 52-67, and col. 6, lines 1-8).

However, Bryant does not explicitly disclose:

- inserting a duration of time between said first request and said second request based on

  the representation of the calculated time contained in said record.

Chen a method that extends a standard HTML browser to support a new data type, the

Uniform Locator Sequence (URLS) comprising:

- inserting a duration of time between said first request and said second request based on

  the representation of the calculated time contained in said record (col. 4, lines 49-58).

Therefore, one of ordinary skill in the art would have found it obvious to combine the

teachings of Bryant and Chen by recording the time between two requests in order to calculate a

time delay allowing the user to view a current web page without being interrupted.

18.   Claims **42** and **43** are rejected under 35 U.S.C. 103(a) as being unpatentable over Bryant

as applied to claims **4, 7-9, 15-16**, and **37-41** above, and further in view of Bryant et al

(6,078,956).

As per claim **42**, Bryant discloses the invention substantially as claimed.

However, Bryant does not explicitly disclose

- wherein the recorded information indicative of said second client request is further a

  function of a cookie associated with said response.

In an analogous art, Bryant (6,078,956) discloses sending response time information from a Web client to a Web server in a cookie (see abstract, and col. 2, lines 23-43).

Given the teaching of Bryant (6,078,956), it would have been obvious to one of ordinary skill in the art to modify Bryant by including a cookie within the monitor in order to obtain information associated with a response allowing the monitor to keep track and identify user activities on a web page.

As per claim **43**, Bryant discloses the invention substantially as claimed.

However, Bryant does not explicitly disclose

* wherein at least some of the representation said requests is further a function of one or more cookies associated with said responses.

In an analogous art, Bryant (6,078,956) discloses sending response time information from a Web client to a Web server in a cookie (see abstract, and col. 2, lines 23-43).

Given the teaching of Bryant (6,078,956), it would have been obvious to one of ordinary skill in the art to modify Bryant by including a cookie within the monitor in order to obtain information associated with a response allowing the monitor to keep track and identify user activities on a web page.

Response to Arguments

19.   Applicant's arguments filed February 28, 2003 have been fully considered but are moot in view of the new ground(s) of rejection.

In response to Applicant's request for reconsideration filed on August 6, 2003, the following factual arguments are noted:

a.   A telephonic interview was held on July 22, 2003 with Attorney Peter Ullman. During the interview claims 4, 7, 8, and 9 were discussed.

b.   With regard to claim 4, no agreement was reached.

c.   With regard to claims 7 and 8, it was agreed that Bryant does not teach the features of "wherein the recorded information indicative of said second client request is a function of said response" (claim 7) or "wherein said function takes into account the relative location of one of said hyperlinks on said web page"(claim 8). However, although the Examiner agreed that Bryant does not teach this feature, the Examiner did not agree that claims 7 and 8 are patentable because of the possibility that a further search would reveal a different reference that discloses this feature.

d.   As per claim 4, applicants argued during the interview that Bryant teaches, at most, the transmission of a request, and not the re-transmission of a request that has been previously transmitted. Nor does Bryant teach the feature of "simulating a user interaction," as recited in claim 4. Since Bryant does not teach these features, the section 102(e) rejection of claim 4 should be withdrawn.

e.   Bryant does not teach that the information recorded about the second client request is a function of a response that has already been received to the first client request. The portions of Bryant onto which the Examiner has read this claim feature (Bryant, col. 5, ll.27-35 and col. 7, ll31-52) discuss the recording information about a response to a request (i.e. the "response time"), not the recording of information about a request is a function of a previously-received response. During the interview, the Examiner agreed with this point.

f.   Regarding claim 8, applicant's argued-and examiner agreed that Bryant does not teach

the feature of recording information about a request as a "function that takes into account the

relative location of one of said hyperlinks on a web page," where the "web page" was previously

received as a response.

g.   Regarding claim 9, Applicant's pointed out during the interview that Bryant teaches a

"response time" and does not teach the recording of a time between two requests, as called for by

claim 9. Bryant's recording of a response time appears to be directed to performance

measurement (i.e. measuring how long it takes the network to respond a request). However,

recording the time between to requests, as recited in claim 9, is directed to the recording details

about a transaction that will allow the transaction to be reproduced in a way that more accurately

imitates how a human user would behave. In the case of claim 9, the time between user requests

is recorded so that during replay of the transaction, the spacing of successive requests can be

timed to reflect the rhythm with which a real user engages in an Internet transaction.

        In considering (a), (b), and (c), The Examiner agrees with Applicant's arugment.

        In considering (d), Examiner respectfully disagrees with Applicant's argument.

According to the claim limitation, "simulating a user interaction by retransmitting said client

request", Bryant discloses a monitor that records and replays a set of URLs that issue from a

Web browser during an interactive session between the client machine and server application.

Each of the HTTP submitter routine simulates a particular user of client machine connected to

the server application.   Thus, Bryant discloses simulating a user interaction by retransmitting

said client request (see abstract, col. 1, lines 48-55, lines 66-67, col. 2, lines 1-19, col. 4, lines 13-24, and col. 5, lines 15-26).

In considering (e), Examiner agrees with Applicant's argument. Applicant's arguments have been fully considered but are moot in view of the new ground(s) of rejection.

In considering (f), Examiner agrees with Applicant's argument. Applicant's arguments have been fully considered but are moot in view of the new ground(s) of rejection

In considering (g), Applicant's arguments have been fully considered but are moot in view of the new ground(s) of rejection

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaShonda T. Jacobs whose telephone number is 703-305-7494. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 703-308-7562. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

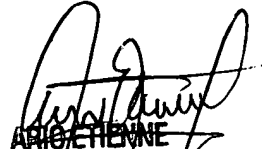LaShonda T. Jacobs
Examiner
Art Unit 2157

ltj
September 12, 2003

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